IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1267 of 2001
(Old No. 5157 of 2000)

Ashok Kumar ….Petitioner

Versus

State of U.P. & Others …Respondents.

Mr. S.N. Babulkar Advocate of the petitioner.
Learned C.S.C. for the respondents.

Coram : Hon'ble S.H.Kapadia, C.J.
Hon'ble Rajesh Tandon,J.

Date: 25.08.2003

PC:-

Rule,

Respondents waived service.

By this petition, petitioner states that he is asked to pay transit fees twice over. The petitioner states that he has been paying transit fees regularly when raw material (stones) from the river located within reserved forest area namely Kosi is extracted. The petitioner further states that after extracting the stones from the river bed, certain procedure is followed which results in manufacture of stone grits, stone chips and sand which is also a forest produce and which is sent to the customers. The petitioner contends that since stone grits, stone chips and sand which result from manufacture are not the forest products, the petitioner can not be asked to pay the transit fees once again.

In this case, we are directing Conservator of Forests, Kumaon Circle, Nainital, to decide the dispute as to whether stone grits, singles, stone chips and sand constitute forest produce or whether they do not constitute forest produce. If they constitute forest produce then State is right in levying transit fees. If it is a part of the law material them transit fees cannot be doubly charged.

This controversy needs to be decided by the Conservator of Forests. The petitioner may make a representation to him with all the details of the process applied by the petitioner to the rock, stones removed from the riverbed. This representation will be made to the Conservation of Forests

within four weeks from today. On receiving the representation, the Conservator of Forests will decide the matter after hearing the petitioner within six weeks that date.

Till hearing and final disposal of the petitioner's representation, the petitioner will continue to pay the transit fees, which the petitioner is paying all throughout.

If the Conservator of Forests passes any adverse order against the petitioner, the petitioner is given liberty to come to this court under article 226 of the constitution.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.) **(S.H.Kapadia, C.J.)**

Msp